

THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

FILED
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AUSTIN DIVISION
U.S. CLERK'S OFFICE

BY:

Rhett Webster Pease,
Plaintiff

Cause No.:

vs.

District Judge Sam Sparks,
U.S. Marshal Jack Dean and 8 or 10
Unknown Agents,
Defendants

A03 CA 29 JN

COMPLAINT IN THE FORM OF A BIVENS ACTION

Rhett Webster Pease, plaintiff in the above-captioned action, alleges as follows:

JURISDICTION

This is a civil action brought pursuant to *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971). The Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 2201.

PARTIES

Plaintiff, Rhett Webster Pease (Pease) is a neutral Texas civilian who is domiciled at 12600 Limerick Avenue, Austin, Texas.

Defendant Jack Dean (Dean) is a United States Marshal for the Western District of Texas. Dean can be served at 200 W. 8th Street, Austin, Texas.

Defendant Sam Sparks (Sparks) is a Federal District Judge for the Western District of Texas.

Judge Sparks can be served at 200 W. 8th Street, Austin, Texas

Defendants 8 or 10 Unknown Agents will be named as their identity becomes known.

FACTS

On Friday, January 17, 2003, as he was leaving his home to go to work, Pease was approximately ½ block from his home, traveling east on Redstone. A Chevy S10 truck traveling west began drifting in his direction. Pease thought the driver might be drunk. The driver was dressed in a plaid flannel shirt. The pickup kept heading for his truck, and Pease realized he was about to be rammed, the man then parked the pickup in the street, got out of the pickup and started towards Pease. As Pease put his truck in reverse and began backing up, he heard a siren and backed into his driveway. Pease was immediately surrounded by an unknown number of men. The man in front of Pease wore a jacket on which was written the word "police". Pease was ordered to get out of the truck with his hands up. Pease turned off the lights, turned off the engine and exited the truck with his hands in the air. One of the "police" grabbed Pease's shirt front to jerk him to the ground, but the shirt tore and Pease was left standing. At that point two of the "police" jumped on Pease and drove him to the ground.

Several of the men were issuing orders, all of them conflicting. "Turn left, turn right, followed by, so you don't want to cooperate!" They shouted that they were U. S. Marshals. Pease was dragged to the sidewalk in front of his house. Pease was grabbed by his hair and his chin was slammed into the concrete. One of the "police" stood on Pease's head with a booted foot, while two of the "police" sat on his back. The "police" continued to shout commands, as if Pease could move. Marshal Jack Dean kept shouting, "Shoot him, shoot him!" The "police" all had drawn guns. Pease was lying between Dean with a drawn gun and a neighbor girl on her way to grade school. The girl ran down the sidewalk, in the line

of Dean's fire, in terror. The "police" handcuffed Pease and placed leg irons on him. The "police" searched Pease's pockets and removed his money clip from his pocket and all of his change. The "police" threw all the change on the ground with the exception of 27 cents, which they replaced in his pocket. Meanwhile other members of the "police" ransacked and searched Pease's truck, seizing certain items from the truck and taking the key which Pease had left in the ignition.

Pease was publically humiliated, accosted as if he was a common criminal and deeply shaken and traumatized by the invasion of privacy and trespass by Federal Marshals.

Pease was taken to a holding cell at the Federal District Court at 200 West 8th Street, Austin, Texas. While in the cell, the "police" were talking and stated that if they had to go to Pease's property again, they would shoot him. As Pease was being led from the holding cell by Dean, Dean said to Pease, "Shut your fucking mouth. I'm the one who wanted to shoot you this morning. I hope you don't obey Judge Sparks's order so I can come out again." Pease was then taken before Judge Sam Sparks who had issued the order to arrest Pease in total want and absence of any jurisdiction.

Sparks held a hearing for Pease to show cause why Pease shouldn't be held in contempt for disobeying Sparks's order to vacate his home, signed on October 24, 2003 and timely appealed to the Fifth Circuit Court of Appeals, and which is currently involved in three Texas State cases pending before the 3rd Court of Appeals at Austin. Sparks has issued 5 sua sponte orders in the district court while the jurisdiction lies in the 5th Circuit Court of Appeals. Sparks, a Federal judge, has very limited jurisdiction and is in absence of jurisdiction to carte blanche issue pleadings except on the motion of one of the parties to the case. Pease's arrest in absence of criminal action or charge is in violation of the duties Sparks has sworn to uphold, namely the inalienable rights extended to all Americans under the and Amendments to the

U.S. Constitution.

FIRST CAUSE OF ACTION

Judge Sparks violated the Peases's protection under the Fourth Amendment. One of the protections afforded plaintiff under the Fourth Amendment is an independent limitation upon the exercise of federal power. Judge Sparks did not issue an arrest warrant supported by probable cause, for Pease had committed no crime. Instead, Judge Sparks, in the absence of authority or jurisdiction, signed an Order which would result in the arrest of Rhett Webster Pease. The arrest and subsequent search were effected without a warrant and unreasonable force was made in the arrest. The arrest was made without probable cause. Judge Sparks has violated Pease's right to privacy under the Fourth Amendment and committed trespass on Pease's property.

SECOND CAUSE OF ACTION

In Judge Sparks's zeal to effect an eviction which rightfully belongs in State courts, and for which the U.S.A., the plaintiff in Cause No. had failed to pursue remedy in State court, the proper venue and jurisdiction for such action, resulted in Judge Sparks's issuing four sua sponte orders, in violation of Pease's right to due process under Article Five of the U.S. Constitution. Judge Sparks's issued these orders in bad faith.

THIRD CAUSE OF ACTION

U.S. Marshal Jack Dean and the unknown deputies under his command, knew or should have known that no official, be it state or federal, can summarily effect an arrest without a warrant, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized. Dean and 8 or 10 unknown agents know or should have known that the in absence of a valid

warrant there exists no basis for a federal search and seizure. Dean and 8 or 10 unknown agents did not abide by the independent limitation upon the exercise of federal power, in clear violation of the Fourth Amendment.

FOURTH CAUSE OF ACTION

Dean and 8 or 10 unknown agents, at the behest of Judge Sparks, terrorized and threatened Rhett Webster Pease, in clear violation of the protections afforded by the Fourth Amendment. When Federal agents converged on Pease, terrified, manhandled and seized him, they were flexing their Federal might. Dean kept shouting, "Shoot him, shoot him" and later conveyed a threat to Pease that if Federal Marshals had to come to Pease's property again, Pease would be shot. The mere invocation of federal power by a federal law enforcement official will normally render futile any attempt to resist an unlawful entry or arrest by resort to the local police; and a claim of authority to enter is likely to unlock the door as well. See *Weeks v. United States*, 232 U.S. 383, 386 (1914)

FIFTH CAUSE OF ACTION

Judge Sparks and Marshall Dean, in violation of the Fourth Amendment, conspired to violate Pease's right to be secure in his persons, houses, papers and effects, against unreasonable searches and seizures. The unnecessary force applied, the humiliation, the death threats, the ultimatum given to Pease in Judge Sparks's court to bend to Sparks's Federal force and will all were in violation of Pease's Fourth Amendment rights.

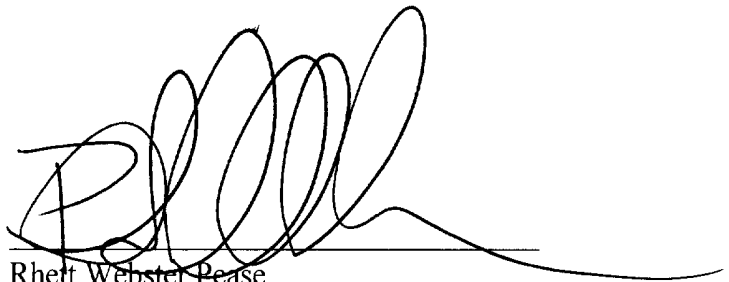
Plaintiff, Rhett Webster Pease requests a jury trial.

PRAYER FOR RELIEF

WHEREFORE, Rhett Webster Pease requests that this Court grant the following relief:

1. A permanent injunction against defendants upon the filing of this suit and notice to the defendants.
2. That damages in the amount of \$1 million (One Million Dollars) in monetary damages be awarded plaintiff for injuries consequent to the Constitutional violations.
3. Costs of courts and reasonable attorneys fees.
4. Any other awards which the court deems appropriate.

I declare under penalty of perjury that the foregoing is true and correct.



Rhett Webster Pease
12600 Limerick Avenue
Austin, Texas 78727
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(512) 416-1727 Fax

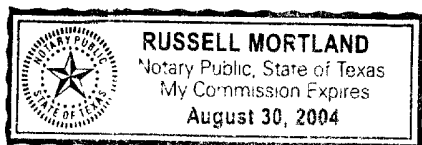
State of Texas }
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County of Travis }

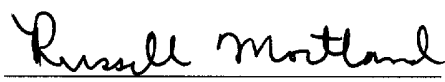
JURAT

Before me, the undersigned, a Notary Public in and for said County and State on this 21st day of January, 2003, personally appeared Rhett Webster Pease, to me known to be the identical person who executed the within and foregoing instrument and acknowledged to me that he executed the same as his free and voluntary act.

Given under my hand and seal the day and year last above written.

My commission expires 8-30-04




Notary Public